

**UNITED STATES DISTRICT COURT**  
for the  
Eastern District of Virginia

OK CHOI

Plaintiff

v.

DENNIS SMITH &amp; SALLACK WELL SERVICES, INC

Defendant

Civil Action No. 4:18-cv-00040

**SUBPOENA TO APPEAR AND TESTIFY  
AT A HEARING OR TRIAL IN A CIVIL ACTION**

To: Tina Whitaker  
3 SESCO Drive, Hampton, Virginia 23664

*(Name of person to whom this subpoena is directed)*

**YOU ARE COMMANDED** to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States Courthouse  
2400 West Avenue  
Newport News, Virginia 23607

Courtroom No.:

Date and Time: 12/06/2018 10:00 am

You must also bring with you the following documents, electronically stored information, or objects *(leave blank if not applicable)*:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/07/2018

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Ok Choi, who issues or requests this subpoena, are:

Lowell A. Stanley, Esq., 6330 Newtown Road, Suite 324, P.O. Box 12639, Norfolk, VA 23541  
bryanl@lowellstanley.com (757) 461-5555

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

**AFFIDAVIT OF SERVICE**

State of Virginia

County of Eastern District

U. S. District Court

Case Number: 4:18CV40 Court Date: 12/6/2018 10:00 am

Plaintiff:

OK CHOI

vs.

Defendant:

DENNIS SMITH and SALLACK WELL SERVICES, INC.

For: Lowell Stanley, Esq  
The Lowell Stanley Firm

Received by Service on Summons, Inc. on the 11th day of September, 2018 at 3:30 pm to be served on TINA WHITAKER, 3 SESCO DR, HAMPTON, VA 23664. I, WYLIE SMITH, being duly sworn, depose and say that on the 15 day of SEP, 2018 at 8:06 a.m., executed service by delivering a true copy of the SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL CASE, WITNESS FEE CHECK \$54.17 in accordance with state statutes in the manner marked below:

( ) INDIVIDUAL SERVICE: Served the within-named person.

( ) CORPORATE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_

( ) SUBSTITUTE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_

☒ POSTED SERVICE: On the front door or other door as appears to be the main entrance of usual place of abode, address listed above. ( Other authorized recipient not found )

( ) Pursuant to 5 U.S.C. & 550a, served by certified mail or registered mail, return receipt requested

( ) NON SERVICE: For the reason detailed in the Comments below.

( ) DATE OF MAILING: \_\_\_\_\_

( ) Served on The Secretary of the Commonwealth

COMMENTS: Buckroe Pointe Apts

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Commonwealth of Virginia, City or County of  
VIRGINIA BEACH

Subscribed and Sworn before me on the 15 day  
of Sept, 2018 by the affiant who is  
personally known to me.

Krishna Majithia  
NOTARY PUBLIC

Krishna Majithia: Expires 12/31/2021, ID# 327806

Wylie Smith  
PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance with State Statutes

Service on Summons, Inc.  
5209 Shepparton Way  
Virginia Beach, VA 23455  
(757) 479-1800

Our Job Serial Number: 2018001317  
Ref: US MAIL

**KRISHNA MAJITHIA**  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
REGISTRATION # 327806  
MY COMMISSION EXPIRES DEC. 31, 2021

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AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 2)

Civil Action No. 4:18-cv-00040

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* Tina Whitaker  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ 54.17.

My fees are \$ 14.17 for travel and \$ 40.00 for services, for a total of \$ 54.17.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

## UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

OK CHOI

Plaintiff

v.

DENNIS SMITH &amp; SALLACK WELL SERVICES, INC

Defendant

Civil Action No. 4:18-cv-00040

SUBPOENA TO APPEAR AND TESTIFY  
AT A HEARING OR TRIAL IN A CIVIL ACTIONTo: Naoufal Dermoumi  
211 Dale Drive, Portsmouth, Virginia 23704

(Name of person to whom this subpoena is directed)

**YOU ARE COMMANDED** to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States Courthouse  
2400 West Avenue  
Newport News, Virginia 23607

Courtroom No.:

Date and Time: 12/06/2018 10:00 am

You must also bring with you the following documents, electronically stored information, or objects (leave blank if not applicable):

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/07/2018

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Ok Choi

, who issues or requests this subpoena, are:

Lowell A. Stanley, Esq., 6330 Newtown Road, Suite 324, P.O. Box 12639, Norfolk, VA 23541  
bryanl@lowellstanley.com (757) 461-5555

## Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).



**AFFIDAVIT OF SERVICE**

State of Virginia

County of Eastern District

U. S. District Court

Case Number: 4:18CV40 Court Date: 12/6/2018 10:00 am

Plaintiff:

OK CHOI

vs.

Defendant:

DENNIS SMITH and SALLACK WELL SERVICES, INC.

For: Lowell Stanley, Esq

The Lowell Stanley Firm

Received by Service on Summons, Inc. on the 11th day of September, 2018 at 3:30 pm to be served on NAOUFAL DERMOUMI, 211 DALE DR, PORTSMOUTH, VA 23704. I, William Berello, being duly sworn, depose and say that on the 18 day of Sept, 2018 at 7:41 a.m., executed service by delivering a true copy of the SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL CASE, WITNESS FEE CHECK \$63.98 in accordance with state statutes in the manner marked below:

☐ INDIVIDUAL SERVICE: Served the within-named person.

☐ CORPORATE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_

☐ SUBSTITUTE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_

☒ POSTED SERVICE: On the front door or other door as appears to be the main entrance of usual place of abode, address listed above. ( Other authorized recipient not found )

☐ Pursuant to 5 U.S.C. & 550a, served by certified mail or registered mail, return receipt requested

☐ NON SERVICE: For the reason detailed in the Comments below.

☐ DATE OF MAILING: \_\_\_\_\_

☐ Served on The Secretary of the Commonwealth

COMMENTS: white 1001 Apt w/ white front door

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Commonwealth of Virginia, City or County of  
VIRGINIA BEACH

Subscribed and Sworn before me on the 18 day  
of Sept, 2018 by the affiant who is  
personally known to me

Imayth S  
NOTARY PUBLIC

Krishna Majithia. Expires 12/31/2021, ID# 327806

SDT  
PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance with State Statutes

Service on Summons, Inc.  
5209 Shepparton Way  
Virginia Beach, VA 23455  
(757) 478-1890

Our Job Serial Number: 2018001318  
Ref: US MAIL

**KRISHNA MAJITHIA**  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
REGISTRATION # 327806  
MY COMMISSION EXPIRES DEC. 31, 2021

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Civil Action No. 4:18-cv-00040

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for (name of individual and title, if any) Naoufal Dermoumi  
 on (date) \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ on (date) \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
 \_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
 \$ 63.98.

My fees are \$ 23.98 for travel and \$ 40.00 for services, for a total of \$ 63.98.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.



AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the  
Eastern District of Virginia

OK CHOI

Plaintiff

v.

DENNIS SMITH &amp; SALLACK WELL SERVICES, INC

Defendant

Civil Action No. 4:18-cv-00040

**SUBPOENA TO APPEAR AND TESTIFY  
AT A HEARING OR TRIAL IN A CIVIL ACTION**

To: Kyong Ghigliotti  
336 Susan Constant Drive, Newport News, Virginia 23608

(Name of person to whom this subpoena is directed)

**YOU ARE COMMANDED** to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States Courthouse 2400 West Avenue Newport News, Virginia 23607	Courtroom No.:
	Date and Time: 12/06/2018 10:00 am

You must also bring with you the following documents, electronically stored information, or objects (leave blank if not applicable):

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/07/2018

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Ok Choi

, who issues or requests this subpoena, are:

Lowell A. Stanley, Esq., 6330 Newtown Road, Suite 324, P.O. Box 12639, Norfolk, VA 23541  
bryanl@lowellstanley.com (757) 461-5555

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

**AFFIDAVIT OF SERVICE**

State of Virginia

County of Eastern District

U. S. District Court

Case Number: 4:18CV40 Court Date: 12/6/2018 10:00 am

Plaintiff:  
**OK CHOI**

vs.

Defendant:  
**DENNIS SMITH and SALLACK WELL SERVICES, INC.**

For: Lowell Stanley, Esq  
The Lowell Stanley Firm

Received by Service on Summons, Inc. on the 11th day of September, 2018 at 3:30 pm to be served on **KYONG GHIGLIOTTI, 336 SUSAN CONSTANT DR, NEWPORT NEWS, VA 23608**. I, **WYLIE SMITH**, being duly sworn, depose and say that on the 15 day of SEP, 2018 at 836 m., executed service by delivering a true copy of the **SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL CASE, WITNESS FEE CHECK \$65.07** in accordance with state statutes in the manner marked below:

- ☒ **INDIVIDUAL SERVICE:** Served the within-named person. X [Signature]
- ☐ **CORPORATE SERVICE:** By serving \_\_\_\_\_ as \_\_\_\_\_
- ☐ **SUBSTITUTE SERVICE:** By serving \_\_\_\_\_ as \_\_\_\_\_
- ☐ **POSTED SERVICE:** On the front door or other door as appears to be the main entrance of usual place of abode, address listed above. ( Other authorized recipient not found )
- ☐ Pursuant to 5 U.S.C. & 550a, served by certified mail or registered mail, return receipt requested
- ☐ **NON SERVICE:** For the reason detailed in the Comments below.
- ☐ **DATE OF MAILING:** \_\_\_\_\_
- ☐ Served on The Secretary of the Commonwealth

**COMMENTS:** Served personally

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Commonwealth of Virginia, City or County of  
VIRGINIA BEACH

Subscribed and Sworn before me on the 15 day  
of Sept, 2018 by the affiant who is  
personally known to me.

[Signature]  
NOTARY PUBLIC  
Krishna Majithia: Expires 12/31/2021, ID# 327806

[Signature]  
PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance with State Statutes

Service on Summons, Inc.  
5209 Shepparton Way  
Virginia Beach, VA 23455  
(757) 479-1800

Our Job Serial Number: 2018001319  
Ref: US MAIL

**KRISHNA MAJITHIA**  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
REGISTRATION # 327806  
MY COMMISSION EXPIRES DEC. 31, 2021

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Civil Action No. 4:18-cv-00040

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* Kyong Ghigliotty  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ 65.07.

My fees are \$ 25.07 for travel and \$ 40.00 for services, for a total of \$ 65.07.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_ *Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.



AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the  
Eastern District of Virginia

OK CHOI

Plaintiff

v.

DENNIS SMITH &amp; SALLACK WELL SERVICES, INC

Defendant

Civil Action No. 4:18-cv-00040

**SUBPOENA TO APPEAR AND TESTIFY  
AT A HEARING OR TRIAL IN A CIVIL ACTION**

To: John W. Aldridge, M.D., Hampton Roads Orthopaedics and Sports Medicine  
730 Thimble Shoals Boulevard, Suite 130, Newport News, Virginia 23606

(Name of person to whom this subpoena is directed)

**YOU ARE COMMANDED** to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States Courthouse 2400 West Avenue Newport News, Virginia 23607	Courtroom No.: Date and Time: 12/06/2018 10:00 am
---	--

You must also bring with you the following documents, electronically stored information, or objects (leave blank if not applicable):

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/07/2018

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Ok Choi

, who issues or requests this subpoena, are:

Lowell A. Stanley, Esq., 6330 Newtown Road, Suite 324, P.O. Box 12639, Norfolk, VA 23541  
bryanl@lowellstanley.com (757) 461-5555

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

**AFFIDAVIT OF SERVICE**

State of Virginia

County of Eastern District

U. S. District Court

Case Number: 4:18CV40 Court Date: 12/6/2018 10:00 am

Plaintiff:

OK CHOI

vs.

Defendant:

DENNIS SMITH and SALLACK WELL SERVICES, INC.

For: Lowell Stanley, Esq

The Lowell Stanley Firm

Received by Service on Summons, Inc. on the 11th day of September, 2018 at 3:30 pm to be served on JOHN W. ALDRIDGE, MD, HAMPTON ROADS ORTHOPAEDICS & SPORTS MEDICINE, 730 THIMBLE SHOALS BLVD, STE 130, NEWPORT NEWS, VA 23606. I, WYLIE SMITH, being duly sworn, depose and say that on the 17 day of SEP, 2018 at 10:40 a.m., executed service by delivering a true copy of the SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL CASE, WITNESS FEE CHECK \$53.08 in accordance with state statutes in the manner marked below:

( ) INDIVIDUAL SERVICE: Served the within-named person.

☒ CORPORATE SERVICE: By serving X Dana Klein as X front desk

( ) SUBSTITUTE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_

( ) POSTED SERVICE: On the front door or other door as appears to be the main entrance of usual place of abode, address listed above. ( Other authorized recipient not found )

( ) Pursuant to 5 U.S.C. & 550a, served by certified mail or registered mail, return receipt requested

( ) NON SERVICE: For the reason detailed in the Comments below.

( ) DATE OF MAILING: \_\_\_\_\_

( ) Served on The Secretary of the Commonwealth

COMMENTS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**AFFIDAVIT OF SERVICE For 4:18CV40**


I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Commonwealth of Virginia, City or County of  
VIRGINIA BEACH

Subscribed and Sworn before me on the 17 day  
of Sept, 2018 by the affiant who is  
personally known to me.

  
NOTARY PUBLIC

Krishna Majithia: Expires 12/31/2021, ID# 327806

  
PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance with State Statutes

Service on Summons, Inc.  
5209 Shepparton Way  
Virginia Beach, VA 23455  
(757) 479-1800

Our Job Serial Number: 2018001320  
Ref: US MAIL

**KRISHNA MAJITHIA**  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
REGISTRATION # 327806  
MY COMMISSION EXPIRES DEC. 31, 2021

Civil Action No. 4:18-cv-00040

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* John W. Aldridge, M.D.  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ 53.08.

My fees are \$ 13.08 for travel and \$ 40.00 for services, for a total of \$ 53.08.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:



**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the  
Eastern District of Virginia

OK CHOI

Plaintiff

v.

DENNIS SMITH &amp; SALLACK WELL SERVICES, INC

Defendant

Civil Action No. 4:18-cv-00040

**SUBPOENA TO APPEAR AND TESTIFY  
AT A HEARING OR TRIAL IN A CIVIL ACTION**

To: Kinjal Sohagia, M.D., Hampton Roads Orthopaedics and Sports Medicine  
730 Thimble Shoals Boulevard, Suite 130, Newport News, Virginia 23606

(Name of person to whom this subpoena is directed)

**YOU ARE COMMANDED** to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States Courthouse  
2400 West Avenue  
Newport News, Virginia 23607

Courtroom No.:

Date and Time: 12/06/2018 10:00 am

You must also bring with you the following documents, electronically stored information, or objects (leave blank if not applicable):

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/07/2018

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Ok Choi

, who issues or requests this subpoena, are:

Lowell A. Stanley, Esq., 6330 Newtown Road, Suite 324, P.O. Box 12639, Norfolk, VA 23541  
bryanl@lowellstanley.com (757) 461-5555

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

**AFFIDAVIT OF SERVICE**

State of Virginia

County of Eastern District

U. S. District Court

Case Number: 4:18CV40 Court Date: 12/6/2018 10:00 am

Plaintiff:

OK CHOI

vs.

Defendant:

DENNIS SMITH and SALLACK WELL SERVICES, INC.

For: Lowell Stanley, Esq

The Lowell Stanley Firm

Received by Service on Summons, Inc. on the 11th day of September, 2018 at 3:30 pm to be served on KINJAL SOHAGIA, MD, HAMPTON ROADS ORTHOPAEDICS & SPORTS MEDICINE, 730 THIMBLE SHOALS BLVD, STE 130, NEWPORT NEWS, VA 23606. I, **WYLIE SMITH**, being duly sworn, depose and say that on the 17 day of SEP, 2018 at 10:40 a.m., executed service by delivering a true copy of the SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL CASE, WITNESS FEE CHECK \$53.08 in accordance with state statutes in the manner marked below:

( ) INDIVIDUAL SERVICE: Served the within-named person.

☒ CORPORATE SERVICE: By serving X Dana Klein as front desk

( ) SUBSTITUTE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_

( ) POSTED SERVICE: On the front door or other door as appears to be the main entrance of usual place of abode, address listed above. ( Other authorized receipient not found )

( ) Pursuant to 5 U.S.C. & 550a, served by certified mail or registered mail, return receipt requested

( ) NON SERVICE: For the reason detailed in the Comments below.

( ) DATE OF MAILING; \_\_\_\_\_

( ) Served on The Secretary of the Commonwealth

COMMENTS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**AFFIDAVIT OF SERVICE For 4:18CV40**

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Commonwealth of Virginia, City or County of  
VIRGINIA BEACH

Subscribed and Sworn before me on the 17 day  
of Sept, 2018 by the affiant who is  
personally known to me.

  
NOTARY PUBLIC

Krishna Majithia: Expires 12/31/2021, ID# 327806

  
PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance with State Statutes

**Service on Summons, Inc.**  
5209 Shepparton Way  
Virginia Beach, VA 23455  
(757) 479-1800

Our Job Serial Number: 2018001322  
Ref: US MAIL

**KRISHNA MAJITHIA**  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
REGISTRATION # 327806  
MY COMMISSION EXPIRES DEC. 31, 2021



Civil Action No. 4:18-cv-00040

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* Kinjal Sohagia, M.D.  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ 53.08.

My fees are \$ 13.08 for travel and \$ 40.00 for services, for a total of \$ 53.08.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the  
Eastern District of Virginia

OK CHOI

Plaintiff

v.

DENNIS SMITH &amp; SALLACK WELL SERVICES, INC

Defendant

Civil Action No. 4:18-cv-00040

**SUBPOENA TO APPEAR AND TESTIFY  
AT A HEARING OR TRIAL IN A CIVIL ACTION**

To: Mukesh Shah, M.D., Hampton Newport News Community Services Board  
200 Medical Drive, Suite A & B, Hampton, Virginia 23666

(Name of person to whom this subpoena is directed)

**YOU ARE COMMANDED** to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States Courthouse 2400 West Avenue Newport News, Virginia 23607	Courtroom No.: Date and Time: 12/06/2018 10:00 am
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You must also bring with you the following documents, electronically stored information, or objects (leave blank if not applicable):

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/07/2018

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Ok Choi, who issues or requests this subpoena, are:

Lowell A. Stanley, Esq., 6330 Newtown Road, Suite 324, P.O. Box 12639, Norfolk, VA 23541  
bryanl@lowellstanley.com (757) 461-5555

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

**AFFIDAVIT OF SERVICE**

State of Virginia

County of Eastern District

U. S. District Court

Case Number: 4:18CV40 Court Date: 12/6/2018 10:00 am

Plaintiff:

**OK CHOI**

vs.

Defendant:

**DENNIS SMITH and SALLACK WELL SERVICES, INC.**

For: Lowell Stanley, Esq  
The Lowell Stanley Firm

Received by Service on Summons, Inc. on the 11th day of September, 2018 at 3:30 pm to be served on **MUKESH SHAH, MD, HAMPTON NEWPORT NEWS COMMUNITY SERVICES BOARD, 200 MEDICAL DR, STE A & B, HAMPTON, VA 23666. I, WYLIE SMITH**, being duly sworn, depose and say that on the day of SEP, 2018 at 11:10 m., executed service by delivering a true copy of the **SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL CASE, WITNESS FEE CHECK \$49.81** in accordance with state statutes in the manner marked below:

( ) INDIVIDUAL SERVICE: Served the within-named person.

( ) CORPORATE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_

(X) SUBSTITUTE SERVICE: By serving Gloria Mercado as Manager

( ) POSTED SERVICE: On the front door or other door as appears to be the main entrance of usual place of abode, address listed above. ( Other authorized recipient not found )

( ) Pursuant to 5 U.S.C. & 552a, served by certified mail or registered mail, return receipt requested

( ) NON SERVICE: For the reason detailed in the Comments below.

( ) DATE OF MAILING: \_\_\_\_\_

( ) Served on The Secretary of the Commonwealth

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**AFFIDAVIT OF SERVICE For 4:18CV40**


I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Commonwealth of Virginia, City or County of  
VIRGINIA BEACH

Subscribed and Sworn before me on the 17 day  
of Sept, 2018 by the affiant who is  
personally known to me.

  
NOTARY PUBLIC

Krishna Majithia: Expires 12/31/2021, ID# 327806

  
PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance with State Statutes

Service on Summons, Inc.  
5209 Shepparton Way  
Virginia Beach, VA 23455  
(757) 479-1800

Our Job Serial Number: 2018001321  
Ref: US MAIL

**KRISHNA MAJITHIA**  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
REGISTRATION # 327806  
MY COMMISSION EXPIRES DEC. 31, 2021

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 2)

Civil Action No. 4:18-cv-00040

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* Mukesh Shah, M.D.  
 on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
 \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
 \$ 49.81.

My fees are \$ 9.81 for travel and \$ 40.00 for services, for a total of \$ 49.81.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

## UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

OK CHOI

Plaintiff

v.

DENNIS SMITH &amp; SALLACK WELL SERVICES, INC

Defendant

Civil Action No. 4:18-cv-00040

SUBPOENA TO APPEAR AND TESTIFY  
AT A HEARING OR TRIAL IN A CIVIL ACTIONTo: Darany Toy, D.O., Patrick Henry Family Medicine  
12695 McManus Boulevard, Bldg 6, Suite A, Newport News, Virginia 23602

(Name of person to whom this subpoena is directed)

**YOU ARE COMMANDED** to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States Courthouse  
2400 West Avenue  
Newport News, Virginia 23607

Courtroom No.:

Date and Time: 12/06/2018 10:00 am

You must also bring with you the following documents, electronically stored information, or objects (leave blank if not applicable):

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/07/2018

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Ok Choi

, who issues or requests this subpoena, are:

Lowell A. Stanley, Esq., 6330 Newtown Road, Suite 324, P.O. Box 12639, Norfolk, VA 23541  
bryanl@lowellstanley.com (757) 461-5555

## Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AFFIDAVIT OF SERVICE

State of Virginia

County of Eastern District

U. S. District Court

Case Number: 4:18CV40 Court Date: 12/6/2018 10:00 am

Plaintiff:

OK CHOI

vs.

Defendant:

DENNIS SMITH and SALLACK WELL SERVICES, INC.

For: Lowell Stanley, Esq  
The Lowell Stanley Firm

Received by Service on Summons, Inc. on the 11th day of September, 2018 at 3:30 pm to be served on DARANY TOY, D.O., PATRICK HENRY FAMILY MEDICINE, 12695 MCMANUS BLVD, BLDG 6, STE A, NEWPORT NEWS, VA 23602. I, WYLIE SMITH, being duly sworn, depose and say that on the 17 day of SEP, 2018 at 11:05 a.m., executed service by delivering a true copy of the SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL CASE, WITNESS FEE CHECK \$59.62 in accordance with state statutes in the manner marked below:

( ) INDIVIDUAL SERVICE: Served the within-named person.

( ) CORPORATE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_

☒ SUBSTITUTE SERVICE: By serving Carla Solowiei as Front Office

( ) POSTED SERVICE: On the front door or other door as appears to be the main entrance of usual place of abode, address listed above. ( Other authorized receipt not found )

( ) Pursuant to 5 U.S.C. & 550a, served by certified mail or registered mail, return receipt requested

( ) NON SERVICE: For the reason detailed in the Comments below.

( ) DATE OF MAILING: \_\_\_\_\_

( ) Served on The Secretary of the Commonwealth

COMMENTS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



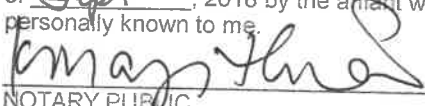


**AFFIDAVIT OF SERVICE For 4:18CV40**

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Commonwealth of Virginia, City or County of  
VIRGINIA BEACH

Subscribed and Sworn before me on the 17 day  
of Sept, 2018 by the affiant who is  
personally known to me.



NOTARY PUBLIC

Krishna Majithia: Expires 12/31/2021, ID# 327806

  
\_\_\_\_\_  
PROCESS SERVER # \_\_\_\_\_

Appointed in accordance with State Statutes

Service on Summons, Inc.  
5209 Shepparton Way  
Virginia Beach, VA 23455  
(757) 479-1800

Our Job Serial Number: 2018001323  
Ref: US MAIL

**KRISHNA MAJITHIA**  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
REGISTRATION # 327806  
MY COMMISSION EXPIRES DEC. 31, 2021

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 2)

Civil Action No. 4:18-cv-00040

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*I received this subpoena for *(name of individual and title, if any)* Darany Toy, D.O.on *(date)* \_\_\_\_\_.☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_\_\_\_\_\_ on *(date)* \_\_\_\_\_; or☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ 59.62.

My fees are \$ 19.62 for travel and \$ 40.00 for services, for a total of \$ 59.62.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*\_\_\_\_\_  
*Printed name and title*\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.: \_\_\_\_\_

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

## UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

OK CHOI

Plaintiff

v.

DENNIS SMITH &amp; SALLACK WELL SERVICES, INC

Defendant

Civil Action No. 4:18-cv-00040

SUBPOENA TO APPEAR AND TESTIFY  
AT A HEARING OR TRIAL IN A CIVIL ACTIONTo: Jonathan Partington, M.D., Neurosurgical Specialists, Inc.  
6261 East Virginia Beach Boulevard, Suite 200, Norfolk, Virginia 23502

(Name of person to whom this subpoena is directed)

**YOU ARE COMMANDED** to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States Courthouse  
2400 West Avenue  
Newport News, Virginia 23607

Courtroom No.:

Date and Time: 12/06/2018 10:00 am

You must also bring with you the following documents, electronically stored information, or objects *(leave blank if not applicable)*:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/07/2018

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Ok Choi

, who issues or requests this subpoena, are:

Lowell A. Stanley, Esq., 6330 Newtown Road, Suite 324, P.O. Box 12639, Norfolk, VA 23541  
bryanl@lowellstanley.com (757) 461-5555

## Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

**AFFIDAVIT OF SERVICE**

State of Virginia

County of Eastern District

U. S. District Court

Case Number: 4:18CV40 Court Date: 12/6/2018 10:00 am

Plaintiff:

**OK CHOI**

vs.

Defendant:

**DENNIS SMITH and SALLACK WELL SERVICES, INC.**

For: Lowell Stanley, Esq

The Lowell Stanley Firm

Received by Service on Summons, Inc. on the 11th day of September, 2018 at 3:30 pm to be served on JONATHAN PARTINGTON, MD, NEUROSURGICAL SPECIALISTS, INC., 6261 E. VA BEACH BLVD, STE 200, NORFOLK, VA 23502. I, Jacqueline Derello, being duly sworn, depose and say that on the 18 day of Sept, 2018 at 12:04 p.m., executed service by delivering a true copy of the **SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL CASE, WITNESS FEE CHECK \$70.52** in accordance with state statutes in the manner marked below:

( ) INDIVIDUAL SERVICE: Served the within-named person.

☒ CORPORATE SERVICE: By serving Rahnae Harsley as Medical Clerk

( ) SUBSTITUTE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_

( ) POSTED SERVICE: On the front door or other door as appears to be the main entrance of usual place of abode, address listed above. ( Other authorized recipient not found )

( ) Pursuant to 5 U.S.C. & 550a, served by certified mail or registered mail, return receipt requested

( ) NON SERVICE: For the reason detailed in the Comments below.

( ) DATE OF MAILING; \_\_\_\_\_

( ) Served on The Secretary of the Commonwealth

COMMENTS:

Rahnae Harsley - Medical Check-in Clerk



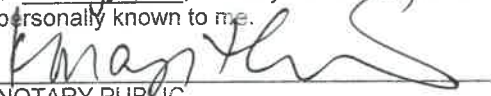


**AFFIDAVIT OF SERVICE For 4:18CV40**

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Commonwealth of Virginia, City or County of  
VIRGINIA BEACH

Subscribed and Sworn before me on the 18 day  
of Sept, 2018 by the affiant who is  
personally known to me.

  
NOTARY PUBLIC

Krishna Majithia: Expires 12/31/2021, ID# 327806

  
PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance with State Statutes

Service on Summons, Inc.  
5209 Shepparton Way  
Virginia Beach, VA 23455  
(757) 479-1800

Our Job Serial Number: 2018001324  
Ref: US MAIL

**KRISHNA MAJITHIA**  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
REGISTRATION # 327806  
MY COMMISSION EXPIRES DEC. 31, 2021

Civil Action No. 4:18-cv-00040

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* Jonathan Partington, M.D.  
 on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
 \$ 70.52.

My fees are \$ 30.52 for travel and \$ 40.00 for services, for a total of \$ 70.52.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.